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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,684	12/15/2003	Jean-Claude Molla	4067-000012	3561

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EXAMINER

HOGAN, JAMES SEAN

ART UNIT PAPER NUMBER

3752

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/735,684

Applicant(s)

MOLLA, JEAN-CLAUDE

Examiner

James S. Hogan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) 5-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/29/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claims 5, 6 (and thus dependent claims 7 and 8), 9, 10, 11 and 12 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only--, and/or, --cannot depend from any other multiple dependent claim--. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits and are considered rejected along with the following.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Belgian Patent No 496727 to Seront.

Regarding claims 1-3, Seront discloses a comprehensive drawing (Figure 2) of an internal flame gas burner having a gas injector (12), a vacuum tube (11), a pot (8), and a cap (2), the cap covering the pot and together with the pot defining an annular distribution chamber (5) for a fuel mixture of air and gas, the chamber (5) having an internal edge (near the number 20) that surrounds the center (not numbered) of this chamber and that is perforated with flame exit ports (20), and the vacuum tube (2)

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having as best as can be determined, an inlet (near 12) open to the ambient air, first and second longitudinal sections (, considers to be 11) having, respectively, convergent and divergent profiles, and an outlet (just beyond the number 21) opening into the annular chamber (5), the first section originating at the inlet of the tube, the second section succeeding the first section and ending at the outlet of the tube, and the injector (1) being relatively closer to the inlet of the vacuum tube than to the outlet of this tube, where the vacuum tube (2) , as measured to be in figure 2 as being 33 mm, extends longitudinally along an axis inscribed substantially in a mid-plane (P) of the annular chamber, and that this tube is less than twice the measured radius of 24mm of the internal edge of the chamber to it's center. As per claim 2, the internal edge is circular. As per claim 3 the measured distance of 33 mm is less than a measured 48mm diameter of the circle defined as the internal edge of the chamber.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belgian Patent No 496727 to Seront.

The rejection of claims 1 and 2 above serve as the basis for the following. Seront does not teach that the length of the tube is at most equal to the radius (of the internal edge of the chamber, however it would have been obvious to one having

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ordinary skill in the art at the time the invention was made to have sized the internal edge to be larger or equal to the measured length of the tube, since such a modification would have involved a mere change in the size of a the ring components. A change in size is generally recognized as being within a level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955)

### ***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows;

U.S. Patent No. 2384022 to Fuller, disclosing the invention

U.S. Patent No. 2817397 to Brumbagh, disclosing the invention

U.S. Patent No. 3527199 to Perry, disclosing the invention

U.S. Patent No. 3568934 to Dunn, disclosing the invention

U.S. Patent No. 3589620 to Davis, disclosing the invention

U.S. Patent No. 3777985 to Hughes et al., disclosing the invention

U.S. Patent No. 3877865 to Duperow, disclosing the invention

U.S. Patent No. 6089219 to Koderer et al., disclosing the invention

U.S. Patent No. 6322354 to Carbone et al., disclosing the invention

U.S. Patent No. 6780008 to Koch et al., disclosing the invention


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JSH  
08/18/2005



**David A. Scherbel**  
Supervisory Patent Examiner  
Group 3700